

# Exhibit 4

# Exhibit 4

U.S. Department of Homeland Security  
500 12<sup>th</sup> Street, SW, Stop 5009  
Washington, DC 20536-5009



September 29, 2011

**U.S. Immigration  
and Customs  
Enforcement**

MS. JENNIFER LYNCH  
ELECTRONIC FRONTIER FOUNDATION  
454 SHOTWELL STREET  
SAN FRANCISCO, CA 94110

**RE: ICE FOIA Case Number 2011FOIA13220**

Dear Ms. Lynch:

This is the final response to your Freedom of Information Act (FOIA) request to Federal Bureau of Investigations (FBI), dated September 28, 2010. You are seeking all agency records created on or after January 1, 2001 (including, but not limited to, electronic records) discussing, concerning, or reflecting the following:

1. any problems, obstacles or limitations that hamper the FBI's current ability to conduct surveillance on communications systems or networks including, but not limited to, encrypted services like Blackberry (RIM), social networking sites like Facebook, peer-to-peer messaging services or Voice over Internet Protocol (VoIP) services like Skype, etc.;
2. any communications or discussions with the operators of communications systems or networks (including, but not limited to, those providing encrypted communications, social networking, and peer-to-peer messaging services), or with equipment manufacturers and vendors, concerning technical difficulties the FBI has encountered in conducting authorized electronic surveillance;
3. any communications or discussions concerning technical difficulties the FBI has encountered to obtaining assistance from non-US-based operators of communications systems or network, or with equipment manufacturers and vendors in the conduct of authorized electronic surveillance;
4. any communications or discussions with the operators of communications systems or networks, or with equipment manufacturers and vendors, concerning development and needs related to electronic communications surveillance enabling technology;
5. any communications or discussions with foreign government representatives or trade groups about trade restrictions or import or export controls related to electronic communications surveillance-enabling technology;
6. any briefings, discussions, or exchanges between FBI officials and member of the Senate or house Representative concerning implementing a requirement for electronic communications surveillance-enabling technology, including, but not limited to, proposed amendments to the Communications Assistance to law Enforcement Act (CALEA).

A search of the FBI for records responsive to your request produced twelve (12) pages of documents that originated from U.S. Immigration and Customs Enforcement (ICE). The FBI referred these documents to ICE for review and processing under the FOIA.

Your request was processed under the FOIA 5 U.S.C. § 552. After a review of the records referred by the FBI, I have determined that portions of the documents will be withheld pursuant to Title 5 U.S.C. § 552Title (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA as described below.

**ICE has applied Exemptions 6 and 7(C) to protect from disclosure e-mail addresses as well as the last four digits of the direct phone numbers of DHS employees and third parties contained within the documents.**

**FOIA Exemption 6** exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

**Exemption 7(C)** protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination. The types of documents and/or information that we have withheld could consist of names, addresses, identification numbers, telephone numbers, fax numbers, or various other documents that are considered personal.

**ICE has applied Exemption 7(E) to protect from disclosure law enforcement systems checks, techniques and/or procedures used during an investigation.**

**Exemption 7(E)** protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I determined that disclosure of law enforcement systems checks, manuals, checkpoint locations, surveillance techniques could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have the right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter to: U.S. Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, Freedom of Information Office, 500 12<sup>th</sup> Street, SW, Stop 5009, Washington, D.C. 20536-5009, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your

envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.<sup>1</sup>

If you need to contact our office about this matter, please refer to FOIA case number 2011FOIA13220. This office can be reached at (202) 732-0600 or (866) 633-1182.

Sincerely,



Catrina M. Pavlik-Keenan  
FOIA Officer



Enclosure(s): 12 pages

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<sup>1</sup> 6 CFR § 5.11(d)(4).

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HEREIN IS UNCLASSIFIED

DATE 05-13-2011 BY

(b)(6), (b)(7)c

## **Electronic Surveillance Capability Assessment Results**

## 1.0 Overview

In support of the Federal Bureau of Investigation's (FBI) "Going Dark" initiative, the Law Enforcement Executive Forum requested the Law Enforcement Support and Information Management (LESIM) Technical Operations Unit (TechOps) collect information about cases where investigations have been negatively impacted by communications carriers' delay in implementation, interruption, partial compliance, or non compliance with a lawful electronic surveillance order. Also, information was collected about cases where electronic surveillance was not considered due to lack of technical capability. This was accomplished by sending an Electronic Surveillance Survey and a Records Request Survey to all Special Agent in Charge (SAC) offices.

## 2.0 Report from SAC Offices

The following offices have reported that investigations have been negatively impacted by one or more of the above criteria or those listed in the surveys. Where applicable, the redacted surveys are attached. Other results are listed below.

### 2.1 SAC Atlanta

See attached survey.

### 2.2 SAC Buffalo

See attached survey.

### 2.3 SAC Honolulu

The Airport Office reported delays as long as three to four months in receiving results for all subpoena requests served on T-Mobile and Cricket Communications.

Resident Agent in Charge (RAC) Guam reported that wired/wireless communication companies on Guam are not Communications Assistance for Law Enforcement Act of 1994 (CALEA) compliant. Agents have heard that there has been a cooperative effort by the Federal Bureau of Investigation (FBI), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Drug Enforcement Agency (DEA), U.S. Marshals and the U.S. Attorneys Office to force a dialogue with the companies on Guam (GTA, IT&E, Docomo & iConnect) to address this issue. Agents believe that ICE needs to engage this group and recommend that Marianas Cable Vision (MCV) be added to the list of companies that needs to be CALEA compliant. MCV now offers Voice over IP phone service.

### 2.4 SAC Miami

See attached survey.

### 2.5 SAC New York

See attached survey.

**2.6 SAC Phoenix**

Assistant Special Agent in Charge (ASAC) Yuma reported that a significant number of their targets use Mexican Nextel phones.

(b)(7)e

(b)(7)e

**2.7 SAC San Antonio**

ASAC McAllen reported that they were only able to receive call data and content from one of two targets on a Title III intercept. The target phones were both Sprint-Nextel iDEN handsets and the problem was experienced with the Push-to Talk (PTT) delivery. Both targets were being served by the same Motorola Dispatch Audio Processor (DAP) and the call data and content was being delivered by the same iDEN Surveillance Gateway (ISG).

(b)(7)e

(b)(7)e

**SAC Atlanta**

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(b)(6), (b)(7)e

**CALEA****SA**

(b)(6), (b)(7)c

Contact Name

Return via FAX: (703) 495-(b)(6), (b)(7)c  
ELSUR Noncompliance Incident Report

DHS (CE)  
U Agency

912-652-  
Phone (123-456-7890)  
(b)(6), (b)(7)c

1. Did you use ELSUR in your investigation?  YES (go to question #3)  NO: (go to question #2)

2. What was the reason for not using ELSUR? (after completing question 2, go to question #12)

- Cost \$ \_\_\_\_\_
- Unable to provide access to LE
- No Assistance Capability
- Provider not required to provide access to LE
- Unable to identify target
- Other \_\_\_\_\_
- Carrier does not serve target (e.g. reseller)

3. Date of Order: \_\_\_\_\_ Case ID: \_\_\_\_\_ (optional)  
(mm) / (dd) / (yyyy)

4. Type of Electronic Surveillance (ELSUR) Order:  Pen Registry / Trap & Trace:  Title III  
 2703(d) Order  Other: \_\_\_\_\_

5. Telephone/Communication Company Name: Southern LinC

6. Service Type:

- Cellular/Wireless:  Air-to-Ground:  Satellite:  Cable- DSL- ISP
- VoIP:  Instant Messaging Provider:  Fiber To The Home (FTTH):  WiMAX
- SMS/MMS Service:  Cellular Broadband:  Internet Service/Portal Provider:  eMail - Social Networking
- Other: \_\_\_\_\_

7. Type of Investigation:

- Drug:  Computer Crime:  Homicide:  Kidnapping
- Organized Crime:  Fugitive:  Public Corruption:  Terrorism
- Violent Crime:  White-collar:  Other: Immigration

8. If the telephone/communication service provider was only able to provide partial compliance with the ELSUR order, what ELSUR evidence was missing?

- Content  Identifying Information  Location Information

g. If the telephone/communication service provider caused a delay in the implementation of ELSUR, how long was the delay?

- No delay  1 to 3 days  4 to 6 days  More than a week  More than 2 weeks
- More than 3 weeks  More than a month  More than 2 months  Other: \_\_\_\_\_

10. If the telephone/communication service provider caused an interruption during the use of ELSUR, how long was the interruption?

- No Interruptions  Less than 3 hours  More than 8 hours  1 day  2 to 3 days
- 4 to 6 days  More than a week  More than 2 weeks  More than 3 weeks  More than a month
- Other: \_\_\_\_\_

11. What reason(s) did the telephone/communication service provider give for (select all that apply):  partial compliance,  delay in implementation,  interruption in obtaining ELSUR evidence?

- Cost \$ \_\_\_\_\_  Provisioning
- Ineffective assistance capability:  Capability request unreasonable for provider
- Unable to identify target  Other: I do not file marching of order

12. What was the impact on the investigation?

- No Impact:  Case Inactive:  Case Closed: \_\_\_\_\_
- Case hindered:  Other: target not located

ACADEMELSUR 9.6.042009

→ would not give "real time" ping location of phone, would only give 1 hour old history

ICE 2011FOIA13220000004

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(b)(6), (b)(7)c

Return via FAX: (703) 495 - 6079.

### Provider Noncompliance With Retrieval of Communication Records

(b)(6), (b)(7)c

Contact Name

SIA

404-444 (b)(6), (b)(7)c

Facsimile Number

DHS TSC OT

Contact Address

(b)(6), (b)(7)c

@dhs.gov

Case ID:

(b)(7)e

Information Provided in a Timely Manner?  Yes  No

Provider Name:

Netex PCS

Provider Type:

- DSL - Internet Access Provider
- Satellite - Internet Access Provider
- Dial-Up - Internet Access Provider
- Satellite - Telephony
- E-Mail - Internet Provider
- VoIP - Internet Telephony Service
- POTS - Internet Access Provider
- WiMAX
- Internet Service/Portal Provider
- Other Cellular

Type of Information Requested:

- IP Assignment Log
- Subscriber Record
- IP Connection Log
- Telephone Call Record
- Stored Text Message
- Other \_\_\_\_\_

Earliest Date Investigated:

04 / 01 / 2004

Record Could Have Been Requested:

1 / 1

(mm) / (dd) / (yyyy)

Actual Date of Investigation:

1 / 1

Record Was Requested:

Several Days

(mm) / (dd) / (yyyy)

Compulsory Process Used for Request:  18 USC 2073 180+ day old communications

- 18 USC 2072 Immediate Danger of Death or Serious Physical Injury Disclosure Court Order
- 18 USC 2073(d) Court Order
- Federal All Writs Order
- Federal Grand Jury Subpoena
- 18 USC 2079 National Security Letters
- Federal Executive Order
- Federal Search Warrants
- Administrative Records Subpoena
- Federal Grand Jury Subpoena
- N/A
- Other \_\_\_\_\_

Provider Explanation For Information Unavailability:

- Data returned less than one month
- Provider Fee Requested to Process Raw Data
- Data returned one to three months
- Other \_\_\_\_\_
- Data returned three to six months

Was there Partial Compliance with the Order?

Yes  No

Impact of Unavailable Information on Investigation:

- Case Closed
- Case Hindered
- Case Inactive
- Other \_\_\_\_\_

Provider's Response Date:

Several Days

Format of Records Provided:

Electronic  Paper

Other \_\_\_\_\_

Description of Impact of Noncompliance on Investigation (enclosed separate sheet if necessary):

Delayed response to case hindered

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(b)(6), (b)(7)c

**CALEA**(b)(6), (b)(7)c  
Contact Name \_\_\_\_\_

**Return via FAX: (703) 485 - 8079**  
**ELSUR Noncompliance Incident Report**

**ICE**

Agency

**716-818-** (b)(6), (b)(7)c  
Phone (123-456-7890)

1. Did you use ELSUR in your investigation?  Yes (go to question #2)  No (go to question #2)
2. What was the reason for not using ELSUR? (after completing question 2, go to question #12)
  - Cost 4
  - No Assistance Capability
  - Usable to Identify target
  - Unable to provide access to LS
  - Provider not required to provide access to LS
  - Center does not serve target (e.g. regular)
  - Other \_\_\_\_\_
3. Date of Order: 01 27 2009 Case ID \_\_\_\_\_ (b)(7)e (optional)
4. Type of Electronic Surveillance (ELSUR) Order:  Pen Registry / Trap & Trace  Title III  
 2703(g) Order  Other \_\_\_\_\_
5. Telephone/Communication Company Name: Cyber Communications
6. Service Type:
  - Telecommunications
  - VoIP
  - SMS/MMS Service
  - Other \_\_\_\_\_
  - Air-to-Ground
  - Instant Messaging Provider
  - Cellular Broadband
  - Satellite
  - Fiber To The Home (FTTH)
  - Internet Service/Postal Provider
  - Cable - DSL - ISP
  - WiMAX
  - Email - Social Networking
7. Type of Investigation:
  - Drug
  - Organized Crime
  - Violent Crime
  - Computer Crime
  - Fugitive
  - White-collar
  - Homicide
  - Public Corruption
  - Other \_\_\_\_\_
  - Kidnapping
  - Terrorism
8. If the telephone/communication service provider was only able to provide partial compliance with the ELSUR order, what ELSUR evidence was missing?
  - Content
  - Identifying Information
  - Location Information
9. If the telephone/communication service provider caused a delay in the implementation of ELSUR, how long was the delay?
  - No delay
  - 1 to 3 days
  - 4 to 6 days
  - More than a week
  - More than 2 weeks
  - More than 3 months
  - Other \_\_\_\_\_
10. If the telephone/communication service provider caused an interruption during the use of ELSUR, how long was the interruption?
  - No interruptions
  - Less than 5 hours
  - More than 5 hours
  - 1 day
  - 2 to 3 days
  - More than 2 weeks
  - More than a month
  - Other \_\_\_\_\_

11. What reason(s) did the telephone/communication service provider give for (select all that apply):  Partial compliance,  Delay in implementation,  Interruption in obtaining ELSUR evidence?

- Cost 4
- Ineffective assistance capability
- Unable to identify target
- Providing
- Capability request unreasonable for provider
- Other System technical issues

12. What was the impact on the investigation?

- No impact
- Case inactive
- Case closed
- Case hindered
- Other \_\_\_\_\_

CALEA

**ELSUR Noncompliance Incident Report Comments Page**

On almost a daily basis, we experienced technical issues with our target line serviced by Cricket Communications. These problems included daily occurrences of intercepted communications that were missing either data or content. We had numerous instances of calls received where direction and/or digits were not provided by the service provider. Also, for approximately four months the office attempted to obtain a useable satellite mapping template for target location data. Several Cricket employees were notified of the problem multiple times over a four month time period. No satisfactory resolution was ever provided by Cricket. In fact, most emails and phone calls regarding this issue were not returned.

2020 RELEASE UNDER E.O. 14176

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Return via FAX: (703) 495 - 8078

Provider Noncompliance With Retrieval of Communication Records

(b)(6), (b)(7)c  
(b)(9)(q)

CE 70 E

(b)(7)(e)

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On-line • Internet Access Pro

E-Mail - Internet Provider  
PIOS - Internet Access Provider  
Internet Service Provider

Storia dell'identità

THERMOCHEMISTRY

Einheitse Datei 01 / 22 / 2009

Actual Date of Investigation: 01/22/2029

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12 JOURNAL OF ENVIRONMENT & DEVELOPMENT

18 USC 2072 Immediate Danger of Death or Serious Physical Injury Disclosure Court Order  
 ○ Federal Grand Jury Subpoena  
 ○ Federal All Writs Order  
 ○ Federal Executive Order  
 ○ Federal Grand Jury Subpoena

18 USC 2074(4) Court Order  
 ○ Federal Grand Jury Subpoena

18 USC 2075 National Security Letters  
 ○ Federal Grand Jury Subpoena

Administrative Records Subpoenas  
 ○ Federal Grand Jury Subpoena

Other Chestnut 3

**Master Explanation For Information**

- Data returned less than one month
- Data returned one to three months
- Data returned three to six months

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Case history \_\_\_\_\_

**Previous Response:** D2 / 06 / 2009  
**Date:** (mm) / (dd) / (yy)

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DATE 05-13-2011 BY  
(b)(6), (b)(7)c

Electronic Surveillance Capability Assessment Response  
SSA(b)(6), (b)(7)RAC/Ft. Pierce  
18 August 2009

On 26 January 2009, I faxed a Customs Summons to Comcast requesting: "Any and all records regarding the name, service and/or billing address; connection records or records of session times and durations; length of service (including start date) and types of service utilized; telephone or instrument number (including MAC Address) or other subscriber number or identity including any temporarily assigned network address; means and source of payment for such service (including any credit card or bank account information) for the account utilizing IP address (b)(7)e on 22 January 2009 at 3:18 pm Eastern Standard Time."

On 6 February 2009, Comcast faxed back a response (an apparent form letter, dated 28 January 2009) advising their log files were, "either incomplete or contained an error" resulting in Comcast's inability to identify the subscriber. On 6 February at 3:16 PM, I left a message requesting a call back using the number provided on the response letter. I did not receive a call back.

On 10 February 2009, I contacted (b)(6), (b)(7)c Legal Coordinator, Comcast Legal Response Center, 856-324-(b)(6), (b)(7) asked if the data was incomplete or if there was an error; (b)(6), (b)(7) reviewed the response and advised she could not tell. She stated that in order to determine if there was incomplete data or an error, I would need to speak with the technician who performed the lookup. I request contact with the unidentified technician who never called me; (b)(6), (b)(7) stated that there was likely a problem linking the IP address to the modem's MAC address. She further stated that when this occurs, the IP address and associated modem is disabled, causing the subscriber to contact Comcast to resume service with a new IP address, meaning that the same problem should not occur in the future. She suggested sending another summons with different dates.

On 11 February 2009, I faxed a Customs Summons to Comcast requesting: "Any and all records regarding the name, service and/or billing address; connection records or records of session times and durations; length of service (including start date) and types of service utilized; telephone or instrument number (including MAC Address) or other subscriber number or identity including any temporarily assigned network address; means and source of payment for such service (including any credit card or bank account information) for the account(s) utilizing IP address (b)(7)e on the following dates and times: 26 November 2008 at 7:24 am MST, 2 December 2008 at 6:40 am MST, 3 December 2008 at 6:53 MST, 22 December 2008 at 12:48 pm MST, 30 December 2008 at 6:11 am MST, 3 January 2009 at 12:06 pm MST, 6 January 2009 at 5:42 am MST, 13 January 2009 from 10:24 am MST to 2:40 pm MST, 20 January 2009 at 5:49 am MST, 22 January 2009 from 3:00 pm EST to 5:30 pm EST."

On 17 February 2009, Comcast faxed back a response (dated 13 February 2009) advising their log files were, "either incomplete or contained an error" resulting in Comcast's inability to identify the subscriber. I again contacted (b)(6), (b)(7)c who advised that I would need a date after the original summons issued to Comcast as the subscriber would have been required to call in to register the modem.

Electronic Surveillance Capability Assessment Response  
SSA(b)(6), (b)(7)RAC/Ft. Pierce  
18 August 2009

I advised (b)(6), (b)(7) that the subject was online at that moment from the same IP address and that I would send an updated summons.

On 19 February 2009, a Customs Summons was faxed to Comcast requesting: "Any and all records regarding the name, service and/or billing address; connection records or records of session times and durations; length of service (including start date) and types of service utilized; telephone or instrument number (including MAC address) or other subscriber number or identity including any temporarily assigned network address (including current IP address); means and source of payment for such service (including any credit card or bank account information) for the account(s) utilizing IP address (b)(7)e from 10 February 2009 at 3:51 pm EST to present."

On 25 February 2009, Comcast faxed back a response (dated 20 February 2009) including the subject's subscriber information, but no IP history or logs. I contacted (b)(6), (b)(7) requesting the IP logs. (b)(6), (b)(7) referred the matter to her supervisor who advised that the language in the summons did not include the term "IP history". I directed her attention to the language, "connection records or records of session times and durations". The supervisor (name unknown) advised that in Comcast's opinion, "connection records or records of session times and durations" did not include IP history. I asked if I needed to send them yet another summons for the IP history. The supervisor advised that in this single instance, she would comply with the summons in hand.

On 27 February 2009, I received the IP history log from Comcast. The log indicated that the subject was issued the same IP address, (b)(7)e from 28 August 2008 to 26 February 2009. The IP log contradicted information provided by the Comcast Legal Response Center regarding Comcast's ability to identify the subscriber. It does not appear that the subscriber was ever disconnected and forced to contact Comcast. On its face, there does not seem to be a reason for Comcast's failure to return the information requested in the original summons.

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(b)(6), (b)(7)c

**Return via FAX: (703) - 662 - 2569**  
**ELSUR Noncompliance Incident Report**

(b)(6), (b)(7)c

Contact Name \_\_\_\_\_

**ICE SAC/NEW YORK**

Agency

645-250(6), (b)(7)c

Phone (123-456-7890)

1. Did you use ELSUR in your investigation?  Yes (go to question #3)  No (go to question #5)

2. What was the reason for not using ELSUR? (after completing question 2, go to question #12)

Court's \_\_\_\_\_  
 No Assistance Capability  
 Unable to Monitor Target

Unable to provide access to LE  
 Provider not required to provide access to LE  
 Carrier does not serve target (e.g. mobile)

Other \_\_\_\_\_

3. Date of Order: 09/20/2009 Case #: \_\_\_\_\_ (b)(7)e \_\_\_\_\_ (b)(7)d

(mm) / (dd) / (yyyy)

4. Type of Electronic Surveillance (ELSUR) Order:  Pen Registry / Trap & Trace  Title III  
 2703(e) Order  Other \_\_\_\_\_5. Telephone/Communication Company Name: T-Mobile

6. Service Type:

Wireless  
 VoIP  
 eMail/MS Service  
 Other \_\_\_\_\_

Air-to-Ground  
 Instant Messaging Provider  
 Cellular Broadband

Satellite  
 Fiber To The Home (PTTH)  
 Internet Service/Postal Provider

Cable - DSL - ISP  
 WiMAX  
 eMail - Social Networking

7. Type of Investigations:

Drug  
 Organized Crime  
 Violent Crimes

Computer Crime  
 PugDie  
 Water-war

Homicide  
 Public Corruption  
 Other Money Laundering

Kidnapping  
 Terrorism

8. If the telephone/communication service provider was only able to provide partial compliance with the ELSUR order, what ELSUR evidence was missing?

Content  Identifying Information  Location Information

9. If the telephone/communication service provider caused a delay in the implementation of ELSUR, how long was the delay?

No delay  1 to 3 days  4 to 6 days  More than 6 weeks  More than 2 weeks  
 More than 3 weeks  More than a month  Less than 2 weeks  Other \_\_\_\_\_

10. If the telephone/communication service provider caused an interruption during the use of ELSUR, how long was the interruption?

No interruptions  Less than 8 hours  More than 8 hours  1 day  2 to 3 days  
 4 to 6 days  More than a week  More than 2 weeks  More than 3 weeks  More than 6 months  
 Other \_\_\_\_\_

11. What reason(s) did the telephone/communication service provider give for (select all that apply):  partial compliance,  delay in implementation,  interruption in obtaining ELSUR evidence?

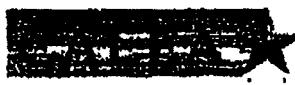
Court's \_\_\_\_\_  
 Provider's \_\_\_\_\_  
 Insufficient assistance capability  
 Unable to Monitor target  
 Other: T-Mobile stated that they never received renewal Court Order.

12. What was the impact on the investigation?

No Impact  Case inactive  Case closed  
 Case hindered  Other: Unknown at this time.

ACADEMELUR.SAM/CS000

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### **ELSUR Noncompliance Incident Report Comments Page**

Tmobile was faxed renewal order for a b-3 and pen register on 8/20/2009.

On 8/23/2009 the case agent called T-mobile to activate precision locate on the same target.

Agent was told that they didn't get the renewal order that I previously faxed on 8/20/2009.

I called T-Mobile at (b)(6), (b)(7)c and immediately put the case back up after I re-faxed the court order.

I asked (b)(6), (b)(7) and his supervisor (b)(6), (b)(7) why couldn't their company fax or email an acknowledgement

when they receive an order. They replied that they only do it the first time on a new order and not for renewals. They further said they would bring it up with their supervisors. This isn't the first time that

T-Mobile has lost an order that was faxed to them, though in the past it was for pen register orders.